

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

WILLIAM DAMON AVERY,

Plaintiff,

v.

Case No. 11-CV-408-JPS

CITY OF MILWAUKEE, DETECTIVE
GILBERT HERNANDEZ, DETECTIVE
DANIEL PHILLIPS, DETECTIVE
KATHERINE HEIN, DETECTIVE
TIMOTHY HEIER, DETECTIVE KEVIN
ARMBRUSTER, and DETECTIVE
JAMES DEVALKENAERE,

Defendants.

ORDER

On October 24, 2022, the Court received a letter from non-party and interested member of the public Michael Miller (“Miller”) requesting that the Court unseal the parties’ final settlement report, ECF No. 196, in the above-captioned matter. ECF No. 201. The above-captioned matter was terminated on December 7, 2017, following a stipulation of dismissal as to the claims against the then-remaining Defendants. ECF Nos. 198, 199. In his letter, Miller represented that Detective Katherine Hein (“Detective Hein”), a Defendant in the above-captioned matter, “might be a witness” at a motion hearing that he has in an unrelated state action on November 17, 2022. ECF No. 201 at 1. Miller explained that the above-captioned matter included a “Brady claim,” which Detective Hein “allowed her lawyers to settle.” *Id.* Miller believes that a copy of the final settlement report will assist him in crossing Detective Hein at his motion hearing.

On October 27, 2022, the Court issued an Order on Miller's letter and denied the request without prejudice, explaining:

The Court had ordered the parties to file their final settlement report under seal in its September 7, 2017 trial scheduling order. ECF No. 193 at 7. This was due to the "policy interest in facilitating and encouraging settlements, an interest which is well-served by preserving the confidentiality of parties' communications." *Franklin United Methodist Home, Inc. v. Lancaster Pollard & Co.*, 909 F. Supp. 2d 1037, 1046 (S.D. Ind. 2012). In order to now unseal the document, therefore, the Court would require the input and/or position(s) on the matter from the parties in the above-captioned action. *See, e.g., Cnty. Materials Corp. v. Allan Block Corp.*, 502 F.3d 730, 740 (7th Cir. 2007) (while the public "has an interest in what goes on at all stages of a judicial proceeding, that interest does not always trump the property and privacy interests of the litigants"). Given that the Court requires the position of the parties in the matter before making a determination, it would not be able to reach a decision prior to Miller's motion hearing on November 17, 2022.

ECF No. 202.

On November 28, 2022, Miller filed a second letter with the Court, explaining that his request is no longer time-sensitive, but that he still wishes to view the final settlement report, ECF No. 196, to assist with his unrelated state action. ECF No. 203. Consequently, the Court will order that counsel for the named parties in the above-captioned action file a statement as to their position on the matter of unsealing the parties' final settlement report, ECF No. 196, on or before **January 20, 2023**.¹ If the Court does not

¹Given that this action was closed almost five years ago, and that counsel listed on the docket may no longer be employed by the entities that represented the named parties, the Court will place a courtesy telephone call to the entities that represented the named parties to ensure that the named parties are on notice of this deadline.

receive any filings from the parties, it will unseal the document. If the document is unsealed, Miller will be able to access it on PACER.²

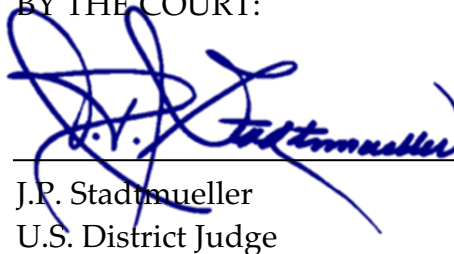
Accordingly,

IT IS ORDERED that counsel for the named parties in the above-captioned action file a statement as to their position on the matter of unsealing the parties' final settlement report, ECF No. 196, on or before **January 20, 2023**; and

IT IS FURTHER ORDERED that the Clerk of the Court is directed to mail a copy of this Order to Michael Miller at the address he provided with his second letter, ECF No. 203.

Dated at Milwaukee, Wisconsin, this 19th day of December, 2022.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge

²The Court notes parenthetically that information regarding the settlement is already available to the public at <https://milwaukee.legistar.com>, by clicking on the "Legislation" tab and searching for this case.